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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/602,923	06/23/2000	Bernard Duroux	BRI-00039	1036

7590

10/24/2002

Warn IP Law Office
P O Box 70098
Rochester Hills, MI 48307

EXAMINER

SHAFFER, RICKY D

ART UNIT PAPER NUMBER

2872

DATE MAILED: 10/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/602,923

Applicant(s)

DURONX ET AL

Examiner

R. D. SHAFER

Group Art Unit

2872

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 months MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 7/10/02

☒ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-15 is/are pending in the application.

Of the above claim(s) 8-15 is/are withdrawn from consideration.

☐ Claim(s) is/are allowed.

☒ Claim(s) 1-7 is/are rejected.

☐ Claim(s) is/are objected to.

☐ Claim(s) are subject to restriction or election requirement

Application Papers

☒ The proposed drawing correction, filed on 7/10/02 is ☒ approved ☐ disapproved by the examiner.

☐ The drawing(s) filed on is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

Art Unit: 2872

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Enomoto et al ('693) in view of Tomiyoshi ('030) or Schenk et al ('753).

Enomoto et al discloses a rearview mirror assembly comprising a base (16), a housing (14), a reflective member (12) and an electric motor (30), wherein said electric motor inherently includes a controller in order to turn the electric motor on or off so as to position the housing from a folded position to an unfolded position or vice-versa, note Fig. 1, except for explicitly stating that the controller is adapted to control the electric motor in such a manner that the motor operates at a first discrete speed and at a second discrete speed.

Tomiyoshi and Schenk et al each teach it is known to adjust the swing speed of a mirror assembly in the same field of endeavor for the purpose of regulating the operating speed of the mirror assembly.

Therefore, it would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to modify the controller of Enomoto et al to include a typical control circuit, as taught by Tomiyoshi or Schenk et al, in order to adjust the swing speed of the mirror assembly.

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As to the limitations of claims 6 and 7, it would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to adjust and/or tailor the swing speed of the mirror assembly to meet user's specifications. Since it has been held that discovering optimum or workable ranges involves only routine skill in the art. Note In re Aller, 105 US PQ 233; In re Boesch, 617 F. 2d 272, 205 US.PQ. 215 (CCPA 1980) and In re Reese, 129 U.S.PQ. 402.

3. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Valentino ('167) in view of Tomiyoshi ('030) or Schenk et al ('753).

Valentino discloses a rearview mirror assembly comprising a base (128), a housing (124), a reflective member (126), an electric motor (122) and a controller (100,110) including measuring means (220) having a counter (90), note Figures 4, 6-9, 11 and 12, except for explicitly stating that the controller is adapted to control the electric motor in such a manner that the motor operates at a first discrete speed and at a second discrete speed.

Tomiyoshi and Schenk et al each teach it is known to adjust the swing speed of a mirror assembly in the same field of endeavor for the purpose of regulating the operating speed of the mirror assembly.

Therefore, it would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to modify the controller of Valentino include a typical control circuit, as taught by Tomiyoshi or Schenk et al, in order to adjust the swing speed of the mirror assembly.

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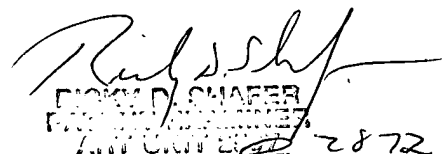
As to the limitations of claims 4-7, it would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to adjust and/or tailor the swing speed of the mirror assembly to meet user's specifications. Since it has been held that discovering optimum or workable ranges involves only routine skill in the art. Note In re Aller 105 USPQ 233; In re Boesch, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980) and In re Reese, 129 U.S.P.Q. 402.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

RDS // October 20, 2002


RICHARD D. SHAFER
PATENT EXAMINER
2872